



AGENDA ITEM: Purchase of Used Lift

TYPE: Informational / Discussion / Possible Action

BACKGROUND:

The purchase of a new (used) lift was budgeted in the current fiscal year and included as part of the Town's 5-Year Capital Improvement Plan. The lift is a critical piece of equipment for the Public Works Department, used for tree maintenance, lighting, and other elevated work throughout the town.

The Town obtained a written quote from **Ring Power** for a reconditioned 2007 JLG 460SJ lift in the amount of **\$23,500**. The lift is currently on loan to the Town for staff to test and evaluate its condition and suitability for ongoing use. A second, verbal quote for a comparable used lift was received from **United Rentals**; however, the **Ring Power quote is less expensive** and offers the added benefit of a reconditioned unit that has undergone full inspection and servicing.

The Town's existing lift is no longer safe to operate and has been taken out of service. Upon purchase of the replacement lift, staff intends to dispose of the old lift through public auction, with full disclosure of all known mechanical issues.

RECOMMENDATION:

If the Public Works Department finds the used lift from Ring Power to be an acceptable addition to the Town's equipment inventory, staff recommends moving forward with the purchase as budgeted.

RECOMMENDED MOTION:

Motion to approve the purchase of a used 2007 reconditioned JLG 460SJ lift from Ring Power in the amount of \$23,500, as budgeted, and authorize staff to dispose of the existing lift through public auction with disclosure of known mechanical issues.

TERMS AND CONDITIONS

THIS AGREEMENT IS SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

1. The Seller reserves the right to accept or reject this Agreement and shall not be required to give any reason for non-acceptance.
2. This Agreement when accepted by Seller shall become a binding contract but shall be subject to strikes, lockouts, accidents, fires, delays in manufacture or transportation, acts of God, embargoes, or governmental action or any other causes beyond the control of the Seller whether the same as, or different from the matters and things hereinbefore specifically enumerated, and any of said causes shall absolutely absolve the Seller from any liability to the Buyer under the terms hereof.
3. Title to the Equipment listed on page one (1) of this Agreement shall not pass to the Buyer until the purchase price (including all taxes) has been paid, but such title remains vested in the Seller until all sums due or to become due from the Buyer to the Seller thereon, whether evidenced by note, book account, judgment, or otherwise, shall have been fully paid, at which time ownership shall pass to the Buyer. Buyer shall assume all liability of damage or destruction to same. At any time after any payment thereon becomes overdue, Seller may avail himself of any legal remedy including the right to repossess the Equipment without notice.
4. The Seller's responsibility for shipments ceases upon delivery to transportation company, and any claims for shortages, delays or damages occurring thereafter shall be made by the Buyer direct to the transportation company. Any claims against the Seller for shortages in shipments shall be made within fifteen days after receipt of shipment.
5. The Buyer agrees that this Agreement shall not be countermanded, and that when it is accepted (and until the execution and delivery of the contract or contracts and note or notes required to consummate the sale as above specified) it will cover all agreements between the parties relative to this transaction, and that the Seller is not bound by any representations or terms made by any agent relative to this transaction which are not embodied herein.
6. When the Equipment necessary to fill this Agreement is available or upon Buyer taking possession of the Equipment, the Buyer agrees it will move forward with this purchase, and on demand to execute and deliver to the Seller such notes and contracts as may be required by the Seller to evidence the transaction. In the event of default or breach of this Agreement by Buyer, or if Seller for any reason deems itself insecure, Seller at its option, shall be entitled to any one or more of the following remedies: Seller may, (a) enter the premises where Equipment is located and render Equipment inoperative or remove Equipment with or without process of law and without notice or liability to Buyer; (b) invoice Buyer for arrears of rent; (c) invoice Buyer for loss of use or for any loss or damage to the Equipment; (d) invoice the Buyer a restocking fee, this fee will be listed on page one (1) of this Agreement; and/or (e) invoice the Buyer for the entire balance of the purchase price. Buyer understands invoices generated as a result of default or breach are immediately due and payable. Upon the occurrence of any event of default, Buyer agrees to pay all costs of collection and expenses, which may be incurred by Lessor, including reasonable attorney's fees, to enforce any right provided in the Agreement.
7. The Buyer shall not, under any circumstance, sell or resell or otherwise convey, transfer or use the Equipment in connection with any person or country currently identified on the OFAC List or otherwise qualify as a Prohibited Person, and Buyer represents and warrants that itself and its employees, agents, and contracts are not in violation of any legal requirements relating to anti-money laundering or anti-terrorism, including, without limitation, legal requirements related to transacting business with Prohibited Persons or the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, U.S. Public Law 107-56, and the related regulations issued thereunder, including temporary regulations, all as amended from time to time. **Prohibited Person means** (A) any person, group or entity named as a "Specially Designated National and Blocked Person" or as a person who commits, threatens to commit, supports, or is associated with terrorism as designated by the United States Department of the Treasury's Office of Foreign Assets Control ("OFAC"), (B) any person, group or entity named in the lists maintained by the United States Department of Commerce (Denied Persons and Entities), (C) any government or citizen of any country that is subject to a United States Embargo identified in regulations promulgated by OFAC, and (D) any person, group or entity named as a denied or blocked person or terrorist in any other list maintained by any agency of the United States government.
8. Equipment described herein as new is sold subject to such warranties as are made in writing by the manufacturer thereof. Seller will cooperate with Buyer in obtaining adjustment from manufacturer for breach of any such manufacturer's warranty, any expense to be for Buyer's account. In the event it is found that there are defective parts within such period as the appropriate manufacturer's agreement to replace defective parts is applicable, Seller will furnish at Seller's repair facilities during regular working hours such labor as is required for replacement or repair of defective parts covered by manufacturer's warranty. Cost of necessary transportation to and/or from Seller's repair facilities shall be borne solely by Buyer. Except for warranty of title by Seller and except for this agreed obligation to furnish labor to make replacement or repair of defective parts covered by manufacturer's warranty within the manufacturer's warranty period, Seller shall not be liable for defects in or for any damages or loss to the property sold nor caused by the property sold unless a special Seller's warranty is expressly written elsewhere hereon or in a separate writing signed by the Seller in a manner provided on the previous page hereof; and under no circumstances shall Seller or manufacturer be liable for any indirect, special, incidental or consequential damages to the Buyer or to any third party. **THE FOREGOING UNDERTAKING WITH RESPECT TO NEW EQUIPMENT IS IN LIEU OF ANY OTHER WARRANTIES, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXPRESS OR IMPLIED; FURTHER, SELLER MAKES NO WARRANTIES WHATSOEVER INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EXPRESS OR IMPLIED, WITH RESPECT TO USED EQUIPMENT AND BUYER TAKES ANY USED EQUIPMENT "AS IS" AND WITH ALL FAULTS OR DEFECTS UNLESS A MODIFICATION IS ENDORSED HEREON OR CONTAINED IN A SEPARATE WRITING SIGNED BY SELLER IN THE MANNER PROVIDED ON THE PREVIOUS PAGE OF THIS AGREEMENT.**
9. BUYER AGREES TO INDEMNIFY, DEFEND AND HOLD SELLER HARMLESS FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, LOSSES, DAMAGES, PUNITIVE DAMAGES, COSTS, EXPENSES, CAUSES OF ACTION OR JUDGMENTS OF ANY KIND OR CHARACTER INCLUDING, WITHOUT LIMITATION, ANY INTEREST, PENALTY, REASONABLE ATTORNEY'S FEES AND OTHER COSTS AND EXPENSES INCURRED IN CONNECTION THEREWITH OR WITH THE DEFENSE THEREOF (COLLECTIVELY, THE "CLAIMS"), WITH RESPECT TO ALL LIABILITIES AND OBLIGATIONS OR ALLEGED OR THREATENED LIABILITIES AND OBLIGATIONS CAUSED BY, RELATED TO, ATTRIBUTABLE TO OR ARISING OUT OF THE OWNERSHIP OR OPERATION OF THE EQUIPMENT DESCRIBED HEREIN AFTER THE DATE OF SALE OR AS A RESULT OF BUYER'S BREACH OF THE TERMS AND CONDITIONS OF THIS AGREEMENT.
10. This Agreement is the sole and entire agreement between the parties with respect to the sale of the Equipment described herein. There are no covenants, promises, agreements, conditions, or understandings, either oral or written, between the parties relating to the subject matter of this Agreement other than those explicitly set forth herein. This Agreement expresses the full and final agreement of the parties and incorporates and supersedes all prior and contemporaneous negotiations and agreements. Any and all terms and conditions contained in Seller's sales quote or other documentation that conflict with, differ from or that are not expressly included in the provisions of this Agreement are rejected and shall be of no force or effect. This Agreement shall not be modified in any way except by a writing signed by both parties.
11. Payment terms for this Agreement are dependent upon approval. Buyer understands and acknowledges payment terms are cash unless credit is approved, payment in advance may be required. With credit approval payment terms are as follows: Sales invoices are due net 10 days from the date of invoice. Past due balances shall be assessed a service charge or interest at the highest rate allowed by law until payment is made. The past due balance represents all charges remaining unpaid on the closing date of the month following invoice date. In the event of default in the payment of any amount due, the Buyer agrees to pay finance charges and the cost of collection. Venue for all actions instituted for any indebtedness due and owing to Seller will lie exclusively in the courts located in Duval County, Florida. The parties agree that any proceeding brought concerning the Sales Agreement will be in the courts of the State of Florida and the parties accept exclusive personal jurisdiction of these courts. **THE UNDERSIGNED KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY.** Buyer warrants that the funds used for payment will not originate from any person or country currently identified on the OFAC List or otherwise qualifies as a Prohibited Person. REMIT PAYMENT TO: PO BOX 935004, ATLANTA, GA 31193- 5004

 SIGN HERE:

 PRINT NAME:

 DATE:



DIGITAL AUTHORIZATION

CATERPILLAR TELEMATICS DATA AND CAT REMOTE SERVICES-SOFTWARE UPDATES PROCESS FOR SELECT PRODUCT LINK TELEMATICS AND CAT EQUIPMENT CONTROL MODULE SOFTWARE.

Customer equipment has installed devices that transmit data to Caterpillar Inc. ("Caterpillar").

Data transmitted to Caterpillar is used in accordance with Caterpillar's [Data Governance Statement](#) ("DGS"), which describes Caterpillar's practices for collecting, sharing and using data and information related to customer's machines, products, Devices or other Assets and their associated worksites. The DGS can be reviewed at <https://www.caterpillar.com/en/legal-notices/data-governance-statement.html>

Caterpillar's process for performing remote diagnostics and making available remote software and firmware updates and upgrades, such as configuration, patches, bug fixes, new or enhanced features, etc., for Assets and Devices is described in the [Cat® Remote Services – Software Update Process for select Product Link™ Telematics and Cat Equipment Control Module Software](#) document (the "RSP Document") The RSP Document can be reviewed at https://www.cat.com/remoteservicesprocess?_ga=2.245276421.1412167159.1561985855-475983137.1559312215.

Company acknowledges and agrees to data transmission to Caterpillar via devices installed on Company equipment or by other means as outlined and described in the DGS, and grants to Caterpillar the right to collect, use, and share such information, including to its Distribution Networks or other affiliates, in accordance with the [Caterpillar Data Governance Statement](#) . Company's authorization also applies to any data and information previously collected by Caterpillar.

AGREE ☒

DECLINE ☐

Company acknowledges and agrees to participate in Remote Services (including, remote diagnostics and remote updates and upgrades) and authorizes Caterpillar to remotely access, program, and install updates and upgrades for Company's Assets and Devices in accordance with the [Remote Services Process Document](#).

AGREE ☒

DECLINE ☐

The rights granted in this authorization survive the termination or expiration of the Company's subscriptions to any Digital Offerings. Except as set out in a written agreement between Company and Caterpillar expressly referencing the Data Governance Statement, this authorization supercedes and replaces any other authorizations with regard to the subject matter hereof.

Company

Town of Micanopy

Company (Print)

X

Company Representative (Print)

X

Signature

X

Date

FOR DEALER USE ONLY
Company UCID
Company Representative CWS ID
Main Store Dealer Code
Dealer Representative Name
Dealer Representative CWS ID